

Investigation Report

File No.	ACMA2022/681
Carriage service provider	SpinTel Pty Ltd
ACN	082 087 689
Scope of investigation	Compliance with clauses 6.6.1, 6.7.1 and 6.7.4 of the Telecommunications Consumer Protections Code C628:2019

Summary of findings

1. The Australian Communications and Media Authority (**the ACMA**) finds that SpinTel Pty Ltd (**SpinTel**) has contravened the Telecommunications Consumer Protections Code C628:2019 (**the TCP Code**) on 30 occasions between 12 August 2022 and 17 August 2022 by failing to comply with the following clauses in the TCP Code:
 - a. 6.6.1 on 10 occasions on 12 August 2022 by failing to include information about its financial hardship policy and how to obtain more details on it in email reminder notices sent to 10 customers.
 - b. 6.7.1 on 10 occasions on 17 August 2022 by failing to give 10 customers at least 5 working days' notice prior to the suspension of their telecommunications service for credit and/or debt management reasons, in circumstances where clause 6.7.1(a) did not apply.
 - c. 6.7.4(b) on 10 occasions on 17 August 2022 by failing to include information in 10 suspension notices that informs customers about its financial hardship policy when notifying these customers about a suspension of the customer's telecommunication service.

Background

2. The TCP Code is registered under Part 6 of *the Telecommunications Act 1997* (**the Act**) and sets out rules that apply to all carriage service providers (**CSPs**) that supply telecommunications products to residential and small business consumers.
3. SpinTel is an Australian company that provides telephone and internet services, which are listed carriage services, to residential and small business customers. It is therefore a CSP within the meaning of section 87 of the Act and is a supplier for the purposes of the TCP Code.
4. On 21 September 2022, the ACMA issued SpinTel with a notice under subsection 521(2) of the Act (**the Notice**). The Notice required SpinTel to provide information and documents relevant to its compliance with the TCP Code, including copies of reminder notices and notices issued to customers that related to a decision by SpinTel to restrict, suspend, or disconnect a customer's telecommunications service due to credit and/or debt management reasons, most recently before 31 August 2022.
5. After considering the information provided by SpinTel in response to the Notice, the ACMA commenced an investigation under Part 26 of the Act into SpinTel's compliance with clauses 6.6.1, 6.7.1 and 6.7.4 of the TCP Code.

6. On 24 February 2023, the ACMA sent its preliminary findings report to SpinTel and invited it to respond. On 21 March 2023, SpinTel provided the ACMA with a submission in response. In its response, SpinTel did not contest the ACMA's preliminary findings.
7. In the course of the investigation, the ACMA examined
 - a. information obtained from SpinTel in response to the Notice, including copies of notices issued to 10¹ customers that related to a decision by Spintel to restrict, suspend or disconnect a customer's telecommunications service due to credit and/or debt management reasons, most recently before 31 August 2022.
 - b. SpinTel's 21 March 2023 submission in response to the ACMA's preliminary findings.

Findings and reasons

8. Having assessed the information before it, the ACMA is of the view that SpinTel has contravened clauses 6.6, 6.7.1, and 6.7.4 in the TCP Code. Details of the contraventions are set out below.

Clause 6.6.1 – Content of reminder notices – financial hardship policy

9. Under clause 6.6.1 of the TCP Code, suppliers must, where issuing reminder notices by email or letter, advise customers, or former customers, of the supplier's financial hardship policy, how to obtain more details on it, and contact details as described in clause 7.1.2.
10. In its response to the Notice, SpinTel advised that it did not issue reminder notices to the 10 customers identified in Attachment A because those customers' accounts were direct debit (via credit card) and instead the customers received a 'decline email and SMS' when payment of the account failed. In its response, SpinTel provided a copy of the 'decline email' issued to each relevant customer on 12 August 2022 (a deidentified sample is at Attachment B). SpinTel did not provide a copy of the 'decline SMS' issued to each relevant customer.
11. The ACMA considers that the 'decline email', which was issued to each relevant customer on the day that a direct debit attempt for payment of their account was declined, is a reminder notice under clause 6.6 of the TCP Code. This is because it is implicitly reminding customers to ensure that their account has sufficient funds in it to avoid their service being restricted.
12. The ACMA considers that, in order to meet the requirements of clause 6.6.1, the content of the reminder notice must explicitly reference the supplier's financial hardship policy or provide a direct link to the policy. The 10 reminder notices issued by email on 12 August 2022 to the 10 customers identified in Attachment A contain no such reference or link.
13. Given the above, the ACMA finds that SpinTel contravened clause 6.6.1 on 10 occasions on 12 August 2022 by failing to advise customers in email reminder

¹ In response to the financial hardship audit s521 notice, SpinTel advised that its financial hardship customers from the relevant period did not meet the parameters specified in the Notice, being customers whose service was disconnected after they had 'unsuccessfully completed a SpinTel financial hardship arrangement' (first cohort of 10 relevant customers). As such, SpinTel submitted information only in relation to the second cohort of 10 relevant customers specified in the Notice, being those who had not been in a financial hardship arrangement and were disconnected for credit and/or debt management reasons most recently before 31 August 2022.

notices about SpinTel's financial hardship policy and how to obtain more details on it.

Clause 6.7.1 – Prior notice of restriction, suspension or disconnection action

14. Under clause 6.7.1, suppliers must give customers at least 5 working days' notice prior to the restriction, suspension or disconnection of the telecommunications service for credit and/or debt management reasons, unless clause 6.7.1(a) applies.
15. Clause 6.7.1(a) states that a supplier may only restrict, suspend, or disconnect a telecommunications service for credit and/or debt management reasons without first informing the customer if:
 - a. the supplier assesses that the customer or the account status presents an unacceptably high credit risk to the supplier;
 - b. the supplier reasonably suspects fraud or attempted fraud; or
 - c. the customer has nominated to the supplier a restriction point and the customer has reached that restriction point.
16. The Notice limited the scope of information and documentation to be provided by SpinTel to 2 cohorts of 10 customers each² that SpinTel disconnected for credit and/or debt management reasons most recently before 31 August 2022, where clause 6.7.1(a) did not apply.
17. The overarching requirement in clause 6.7 is that suppliers must ensure customers are given adequate notice regarding a decision by the supplier to restrict, suspend or disconnect their telecommunications service for credit and/or debt management reasons.
18. It is the ACMA's view that in order for a supplier to give customers at least 5 working days' notice prior to restriction, suspension, or disconnection of the service for credit or debit management reasons, in compliance with clause 6.7.1:
 - a. the supplier's restriction, suspension, or disconnection notice must include an explicit statement to the customer that their service will be restricted, suspended, or disconnected on or after a specified date or time period. That is, the notice should clearly convey to the customer that the supplier has made a decision to restrict, suspend, or disconnect their service on or after the relevant date if payment is not received from the customer, and
 - b. the relevant action should not occur for at least 5 working days after the supplier has notified the customer of its decision.
19. The ACMA considers that the requirement to give 5 working days' notice prior to the relevant action excludes both the date of issue of the notice and the date of the relevant action.
20. The information provided by SpinTel in response to the Notice confirms that the 10 customers identified in **Attachment A** all received suspension notices on the same date: 17 August 2022.
21. The suspension notices relevantly include the following wording:

Services on the account will be temporarily suspended over the next 24 hours, pending payment.

(a deidentified sample suspension notice is at **Attachment C**)

² As noted above, SpinTel advised that it could only provide information relevant to one of these cohorts of customers specified in the Notice, being the 10 customers not in financial hardship arrangements.

22. SpinTel confirmed in its response to the Notice that each customer's service was subsequently suspended the following day, 18 August 2022. The suspension notices therefore gave only 24 hours' notice prior to account suspension.
23. Given the above, the ACMA finds that Spinel contravened clause 6.7.1 on 10 occasions on 17 August 2022 by failing to give the 10 customers identified in **Attachment A** at least 5 working days' notice prior to the suspension of the telecommunications service for credit and/or debt management reasons, where clause 6.7.1(a) did not apply.

Clause 6.7.4(b) – Content of restriction or suspension notice – financial hardship policy

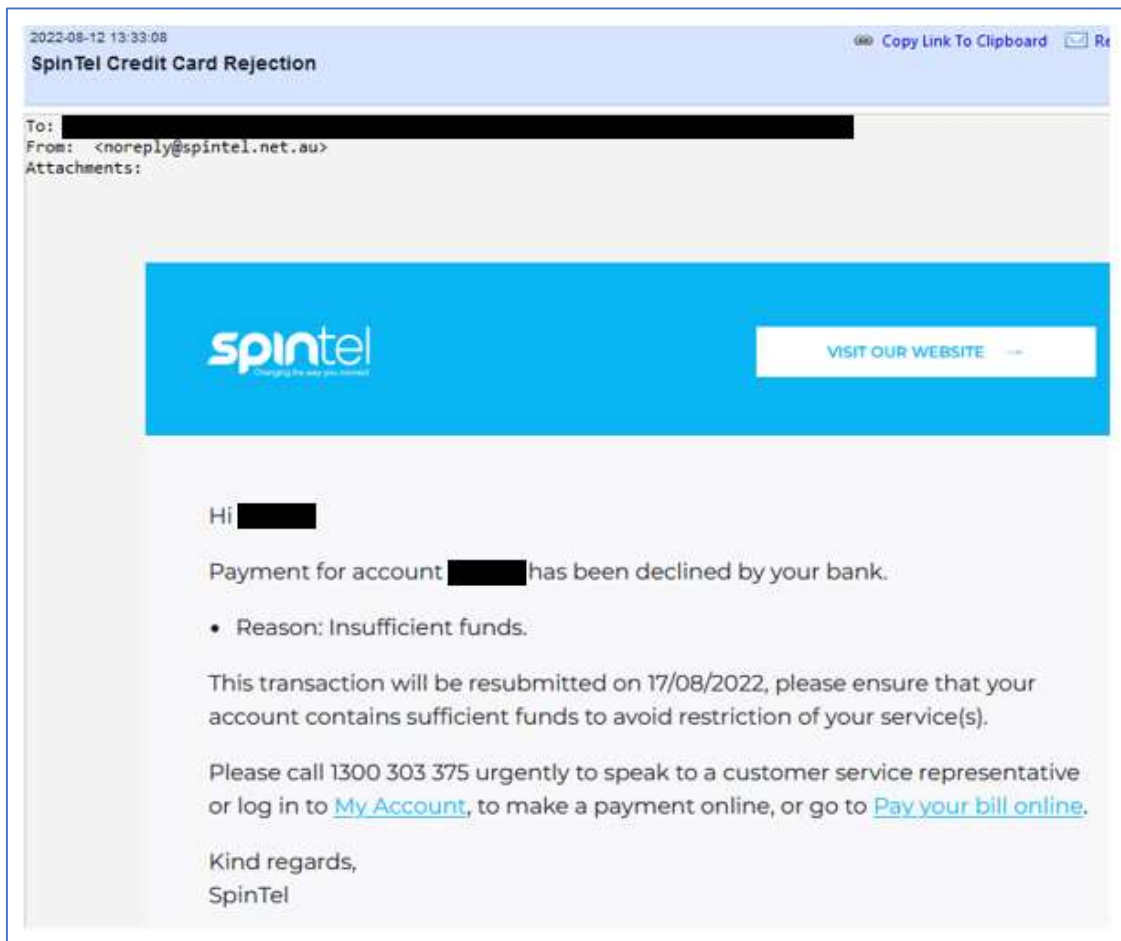
24. Under clause 6.7.4(b) of the TCP Code, if a supplier is notifying a customer about restriction or suspension of the customer's telecommunications service by email or letter, the supplier must inform the customer about the supplier's financial hardship policy in case the customer needs such assistance.
25. The ACMA considers that, in order to meet the requirements of clause 6.7.4(b), the content of the suspension notice must explicitly reference the supplier's financial hardship policy or provide a direct link to the policy. The 10 suspension notices issued by email on 17 August 2022 to the 10 customers at **Attachment A** contain no such reference or link (refer to the deidentified sample notice at **Attachment C**).
26. Given the above, the ACMA finds that SpinTel contravened clause 6.7.4(b) on 10 occasions on 17 August 2022 by failing to include information about, or a direct link to, SpinTel's financial hardship policy when notifying 10 customers about service suspension.

List of relevant customers

Non-financial hardship customers

Customers	
1:	██████████
2:	██████████
3:	██████████
4:	██████████
5:	██████████
6:	██████████
7:	██████████
8:	██████████
9:	██████████
10:	██████████

Deidentified sample reminder notice



Deidentified sample suspension notice

